



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,711	02/05/2004	Richard M. Davies	7921.1	5624
21176	7590	12/08/2009	EXAMINER	
SUMMA, ADDITON & ASHE, P.A. 11610 NORTH COMMUNITY HOUSE ROAD SUITE 200 CHARLOTTE, NC 28277			DANNEMAN, PAUL	
			ART UNIT	PAPER NUMBER
			3627	
			MAIL DATE	DELIVERY MODE
			12/08/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/772,711	DAVIES, RICHARD M.
	<b>Examiner</b>	<b>Art Unit</b>
	PAUL DANNEMAN	3627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires 5 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13.  Other: \_\_\_\_\_.

/F. Ryan Zeender/  
 Supervisory Patent Examiner, Art Unit 3627

Continuation of 11. does NOT place the application in condition for allowance because:  
The Applicant has not amended the pending claims and only argues the following:

Applicant argues "The Examiner states that Wren's brief disclosure of 'car, truck, boat and motorcycle dealerships, department stores, public locations such as shopping malls, auction houses, airports, grocery stores, and real estate offices' is sufficient to teach the service facility for moveable serviceable items of the present invention. The Applicant respectfully submits that the Examiner stretches the Wren document too far when suggesting that the list of these places would suggest services on 'moveable serviceable items' at a location that cannot provide the services." Respectfully, the Examiner disagrees as Wren in at least Column 4, lines 43-67 discloses that the system if for marketing goods and services to a customer at a remote facility. Most everyone who uses a car dealership uses the remote service facilities for things such as repairs, routine maintenance and the remote facilities for collision repair. Wren in at least Column 18, lines 3-47 further discloses that the present invention can be used to sell or assist in selling all goods and services comprising cars, boats, motorcycles and etc. Therefore the Examiner has not stretched Wren, Wren is provided with the broadest, reasonable interpretation based on the information disclosed.

Applicant argues that "Applicant respectfully submits that the combination of Wren and Schuette is improper because the two references are incompatible. Wren has no need for any form of valet service because Wren's system does not manipulate a moveable serviceable item." Respectfully, the Examiner disagrees as the Examiner has provided an example above where a customer travels to a car dealership's remote service facilities for service. Additionally, most everyone has at one time known or used the car dealership's valet service to get a ride home, to work, or to the main facility of the car dealership and etc.

Applicant argues that "the display system of Heusinkveld is not equivalent to the displays at the retail facility of the present invention because Heusinkveld's system is designed to be used by a mechanic at the service facility." Respectfully the Examiner must disagree as Heusinkveld in at least paragraph [0010] discloses that the remote monitor system allows a technician to receive and send audio data both to and from a remote consumer.

The Applicant further argues that the Examiner has engaged in impermissible hindsight. The Examiner respectfully disagrees that any form of hindsight has been used in the examination of Applicant's invention.